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Steven Blader - Rtd.	Anthony J. Parrillo
Brian G. Paul+	Paul T. Koenig, Jr.
Craig J. Hubert++	Nathan M. Edelstein**
Michael R. Paglione*	Keith L. Hovey***
Lionel J. Frank**	Jeffrey M. Hall
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Bruce M. Sattin***	Brandon C. Simmons*
Robert P. Panzer	Jason M. Sokel**
Benjamin T. Branche*	
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+Certified Matrimonial Attorney	Counsel
++Certified Civil and Criminal Trial Attorney	Huff, Moran & Orron, LLC
*NJ & PA Bars	1246 South River Road
**NJ & NY Bars	Cranbury, NJ 08512
***NJ, NY & PA Bars	Tel(609)655-3600

November 7, 2018

Via Electronic Filing and Email (lhg_orders@njd.uscourts.gov)

Hon. Lois H. Goodman, U.S.M.J.
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Courtroom 7E
Trenton, New Jersey 08608

Re: William and Margie Anderton v. 3M Company, et al.
Case No. 3:18-cv-14949 (MAS)(LHG)

Dear Judge Goodman:

This firm, along with the firm of Simon Greenstone Panatier, LLC, represents Mr. and Mrs. William Anderton in connection with the above-referenced matter, which was recently removed to this Court from the Superior Court of New Jersey, Middlesex County. Mr. Anderton is terminally ill with mesothelioma as a result of his exposure to asbestos-containing products that were manufactured and/or distributed by the Defendants.¹ The purpose of this letter is to request that, given Mr. Anderton's worsening condition, this Court enter an Order on short notice allowing his video discovery deposition to proceed on November 14, 2018. We are raising this discovery issue by way of letter, rather than a formal motion, after speaking with your chambers.

An understanding of the procedural history of this case is needed to evaluate the propriety of the Plaintiffs' request. Mr. and Mrs. Anderton originally filed a complaint in the Superior

¹The Third Circuit has recognized that mesothelioma is an "invariably fatal cancer ... for which asbestos exposure is the only known cause ..." In re Patenaude, 210 F.3d 135, 138 (3d Cir.), cert. den., 531 U.S. 1011 (2000). Those who suffer from mesothelioma, like Mr. Anderton, "generally [die] within two years of diagnosis", during which time "mesothelioma victims invariably suffer great pain and disability." Georgine v. Amchem Products, Inc., 83 F.3d, 610, 633 (3d Cir.), aff'd., 521 U.S. 591 (1997).

**SZAFERMAN
LAKIND***Hon. Lois H. Goodman, U.S.M.J.
November 7, 2018**Page 2*

Court of New Jersey on October 3, 2018. On October 8, 2018, and pursuant to the relevant New Jersey Mass Tort Guidelines, my office submitted a Request for a Recommendation to the Special Discovery Master seeking permission from the Court to conduct a discovery and *de bene esse* deposition of Mr. Anderton beginning on November 14, 2018. [Exhibit A]² The Recommendation Request included a Notice of Deposition under the State Court caption. [Exhibit A at p. 10] The Request for Recommendation was simultaneously served on all counsel of record for the Defendants named in the complaint. [Exhibit A at pp. 3-5] None of the Defendants filed and opposition with the Special Discovery Master.

On October 12, 2018, Counsel for Defendant, Revlon, Inc., filed a Notice of Removal removing the Anderton's complaint to this Court pursuant to Title 28 U.S.C. §§ 1441 and 1332. [Docket #1]. Plaintiffs subsequently filed a Motion to Remand on October 16, 2018 which is returnable before Your Honor on November 19, 2018. [Docket #4]

Apparently unaware that the Anderton litigation had been removed to Federal Court, the Special Discovery Master granted the Anderton's Request for Recommendation on October 16, 2018. [See Exhibit B at pp. 7-8]³ On October 18, 2018, Plaintiffs served all defendants with a copy of the Special Discovery Master's Recommendation, along with a Notice of Deposition which was issued this time under the Federal Court caption. [See Exhibit B] Pursuant to the Recommendation, Plaintiffs' counsel has now furnished Defendants with certified answers to interrogatories, a copy of Mr. Anderton's pathology report and a copy of all his available medical records.

Yesterday Plaintiffs received emails from counsel for both Revlon, Inc. and Pfizer, Inc. objecting to the proposed deposition of Mr. Anderton on grounds that the deposition notice issued under the Federal Court caption [Exhibit B at p. 6] did not comply with the Federal Rules of Civil Procedure. As a result – and in light of the fact that Mr. Anderton is terminally ill, is experiencing increasing periods of difficulty and his condition is a matter of day-to-day concern - Plaintiffs are making application by way of this letter for an Order permitting Mr. Anderton's video discovery deposition to proceed on November 14th pursuant to the Notice of Deposition issued under the Federal Court caption and the terms set forth in the Recommendation issued by the Special Discovery Master. See, F.R.C.P. 30(a)(2).

²My cover letter to the Special Master references five categories of documents. Plaintiffs have only included the first two categories in the attached Exhibit A because categories three through five are voluminous and not otherwise relevant to the issues raised herein.

³Again, my cover letter to all defense counsel references five categories of documents. Plaintiffs have only included the first two categories in the attached Exhibit B because categories three through five are voluminous and not otherwise relevant to the issues raised herein.

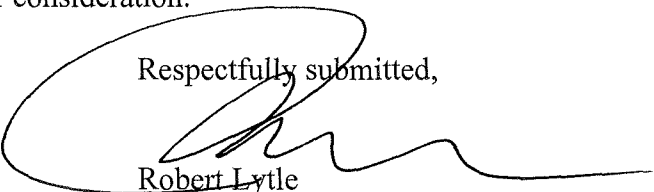
**SZAFERMAN
LAKIND**

*Hon. Lois H. Goodman, U.S.M.J.
November 7, 2018*

Page 3

Thank you for your consideration.

Respectfully submitted,


Robert Lytle

c: Joseph Mandia, Esq.
All Counsel on the Attached Service List

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Exhibit A

SZAFERMAN LAKIND

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+Certified Matrimonial Attorney
++Certified Civil and Criminal Trial Attorney
*NJ & PA Bars
**NJ & NY Bars
***NJ, NY & PA Bars

October 8, 2018

VIA EMAIL AND OVERNIGHT DELIVERY

To: All Counsel on Attached List

Re: Anderton v. 3M Company, et al.
Docket No. MID-L- 5866 -18AS

Dear Counsel:

Enclosed please find the following in service upon you regarding this matter:

1. A copy of a request of Special Master Agatha Dzikiewicz to approve a Recommendation, permitting a video discovery deposition and a video *de bene esse* Deposition of Plaintiff, William Anderton;
2. A Notice of Deposition of Plaintiff, William Anderton, for a video discovery deposition to be held on **Wednesday November 14, 2018, beginning at 10:00 a.m. CST and continuing day to day thereafter as needed**, and a video *de bene esse* deposition to be held on a **Date and Time to be determined and continuing day to day thereafter as needed** provided the Recommendation is approved;
3. A copy of Plaintiffs' Complaint filed in this matter;
4. A certified copy of Plaintiffs' Answers to Standard Interrogatories, Part I;

**SZAFERMAN
LAKIND**

*All Counsel
October 8, 2018*

Page 2

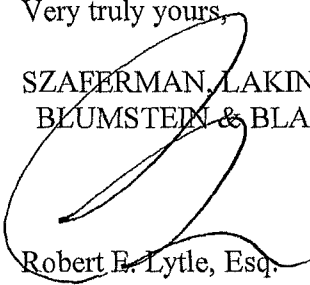
5. A copy of Plaintiff's Pathology Report. Any additional medical records received prior the deposition will be provided to counsel; and

Thank you.

Very truly yours,

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.

By:


Robert E. Lytle, Esq.

REL/gah

Enclosures

c: All Counsel On Attached List
Leah C. Kagan, Esq.

WILLIAM ANDERTON and MARGIE ANDERTON v. 3M COMPANY, et al. et al

DOCKET NO. MID-L-5866 -18AS

COUNSEL MAILING LIST

LAST UPDATED: 10.5.18

ATTORNEY: REL

Our File: .1

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d/b/a DRILLING SPECIALTIES COMPANY

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The Woodlands, TX 77380

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(sued as successor-by-merger to

PHILLIPS PETROLEUM COMPANY)

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Corporate Headquarters

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October 8, 2018

VIA HAND DELIVERY

Agatha Dzikiewicz, Esq.
Special Master
Mass Tort Litigation
56 Paterson Street
Chambers 204
New Brunswick, NJ 08903

Re: Anderton v. 3M Company, et al
Docket No. MID-L- 5866 -18AS

Dear Ms. Dzikiewicz:

Enclosed please find an original Recommendation which seeks authorization to conduct a video discovery and a video *de bene esse* deposition of the Plaintiff, William Anderton, in the above-referenced matter. Also enclosed is a copy of Plaintiffs' filed Complaint in this matter, counsel list, Plaintiffs' Answers to Standard Interrogatories, Part I, and Pathology Report. Plaintiff would like to conduct the video discovery deposition on **Wednesday November 14, 2018 at 10:00 a.m.** (continuing day to day thereafter as needed), and a video *de bene esse* deposition on **a date and time to be determined** (continuing day to day thereafter as needed). I am requesting these depositions inasmuch as the Plaintiff is terminally ill with mesothelioma, his health is in serious decline and his life expectancy is very short.

By a copy of this letter, I am advising my adversaries that, unless notice is provided to you and this office, in writing, of specific objections within five days after service of the enclosed, this Recommendation may be signed in your discretion.

**SZAFERMAN
LAKIND**

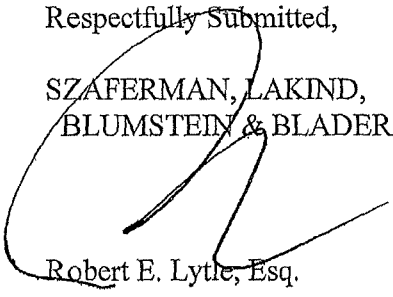
Agatha Dzikiewicz, Esq., *Special Master*
October 8, 2018
Page 2

If there are no objections, and the Recommendation meets with your approval, I would appreciate it if you would be kind enough to sign and fax a copy to my attention. I have included a self-addressed stamped envelope so that a file stamped copy of the original may be returned to me.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.



Robert E. Lytle, Esq.

REL/gah

Encl.

c: All Counsel on attached list
Leah C. Kagan, Esq.

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Dallas, TX 75270
(214) 276-7680
By: Leah Kagan (NJ ID# 013602009)

Attorneys for Plaintiffs

WILLIAM ANDERTON and MARGIE
ANDERTON,

Plaintiffs,

v.

3M COMPANY, et al.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY

DOCKET NO.: MID-L- 5866 -18AS

Civil Action – Asbestos Litigation

RECOMMENDATION

THIS MATTER, having come before Special Master Agatha N. Dzikiewicz, Esq. on October 8, 2018, upon informal application of Szaferman, Lakind, Blumstein & Blader, P.C., attorneys for Plaintiffs, requesting permission from the Court to conduct a video discovery and a video *de bene esse* deposition of Plaintiff, William Anderton, and the Special Master having considered the moving papers, and there being no opposition, and for good cause shown;

IT IS, on this _____ day of October, 2018;

RECOMMENDED, that the Plaintiff's video discovery deposition be scheduled on **Wednesday November 14, 2018**, continuing day-to-day thereafter as needed, to be held at the

Location: Quality Inn and Suites, 2320 Leopard Lane, Malvern, AR 72104 to begin at **10:00 a.m. CST**; and it is

RECOMMENDED, that the Plaintiff's video *de bene esse* deposition be taken on **a date and time to be determined**, continuing day to day thereafter as needed; and

IT IS FURTHER RECOMMENDED that Plaintiff's counsel furnish Plaintiff's answers to interrogatories certified by Plaintiff and any available medical records prior to the discovery deposition; and

IT IS FURTHER RECOMMENDED that additional costs associated with ordering a transcript on an expedited basis, to the extent necessary, should be borne by the Plaintiff, and

IT IS FURTHER RECOMMENDED that all counsel may reschedule these depositions without further leave of Court; and

IT IS FURTHER RECOMMENDED that counsel should forward a copy of this recommendation to all counsel of record via facsimile or email immediately upon receipt.

SPECIAL MASTER AGATHA N. DZIKIEWICZ, ESQ.

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.
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Attorneys for Plaintiffs

WILLIAM ANDERTON and MARGIE
ANDERTON,
Plaintiffs,
v.
3M COMPANY, et al.,
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY

DOCKET NO.: MID-L- 5866 -18AS

Civil Action – Asbestos Litigation

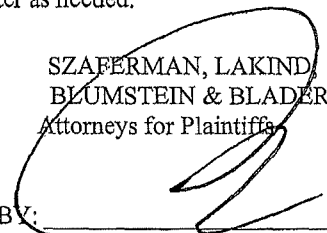
NOTICE OF DEPOSITION

TO: All Counsel on Attached List

PLEASE TAKE NOTICE that, pursuant to New Jersey Rules of Court, testimony will be taken by deposition upon oral examination of the Plaintiff, William Anderton, to be held at Location: Quality Inn and Suites, 2320 Leopard Lane, Malvern, AR 72104 on the dates and times set forth below:

<u>Deposition</u>	<u>Date</u>	<u>Time</u>
Video Discovery	Wednesday, November 14, 2018 continuing day to day thereafter as needed.	10:00 a.m. CST
Video <i>de bene esse</i>	On a date to be determined, continuing day to day thereafter as needed. continuing day to day thereafter as needed.	TBD

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.
Attorneys for Plaintiffs

By: 
Robert E. Lytle, Esq.

Dated: October 8, 2018

U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY (Trenton)

WILLIAM ANDERTON and MARGIE
ANDERTON,

Plaintiffs,

v.

3M COMPANY, et al.,

Defendants.

CASE NO.: 3:18-cv-14949-MAS-LHG

Civil Action -- Asbestos Litigation

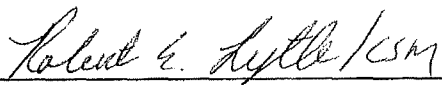
NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure and the annexed Signed Recommendation of the Asbestos Special Master of the Middlesex County New Jersey Superior Court, testimony will be taken by deposition upon oral examination of the Plaintiff, William Anderton, to be held at Quality Inn and Suites, 2320 Leopard Lane, Malvern, AR 72104 on the date and time set forth below:

<u>Deposition</u>	<u>Date</u>	<u>Time</u>
Video Discovery	Wednesday, November 14, 2018 continuing day to day thereafter as needed.	10:00 a.m. CST

PLEASE TAKE FURTHER NOTICE that the deposition will be video recorded.

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.


Robert E. Lytle (NJ ID# 046331990)
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Dated: 10/10/18

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Exhibit B

SZAFERMAN LAKIND

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+Certified Matrimonial Attorney
++Certified Civil and Criminal Trial Attorney
*NJ & PA Bars
**NJ & NY Bars
***NJ, NY & PA Bars

October 18, 2018

Our File# 71660.1

VIA EMAIL AND OVERNIGHT DELIVERY

To: All Counsel on Attached List

Re: Anderton v. 3M Company, et al.
Docket No. MID-L- 5866 -18AS

Dear Counsel:

Enclosed please find the following in service upon you regarding this matter:

1. A Notice of Deposition of Plaintiff, William Anderton, for a video discovery deposition to be held on **Wednesday November 14, 2018, beginning at 10:00 a.m. CST and continuing day to day thereafter as needed.**
2. A copy of the Recommendation approved by Special Master Agatha Dzikiewicz permitting a video discovery deposition and a video *de bene esse* Deposition of Plaintiff, William Anderton;
3. A copy of Plaintiffs' Complaint filed in this matter;
4. A certified copy of Plaintiffs' Answers to Standard Interrogatories, Part I; and

**SZAFERMAN
LAKIND**

*All Counsel
October 18, 2018*

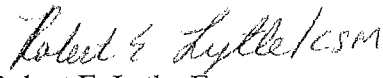
Page 2

5. A copy of Plaintiff's Pathology Report. Any additional medical records received prior the deposition will be provided to counsel.

Thank you.

Very truly yours,

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.

By: 
Robert E. Lytle, Esq.

REL/gah
Enclosures

c: All Counsel On Attached List
Leah C. Kagan, Esq.

WILLIAM ANDERTON and MARGIE ANDERTON v. 3M COMPANY, et al. et al

DOCKET NO. MID-L-5866 -18AS

COUNSEL MAILING LIST

LAST UPDATED: 10.17.18

ATTORNEY: REL

Our File: 71660 .1

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Houston, Texas 77079

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Cleveland, OH 44117

MONTELLO, INC.
Corporate Headquarters
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Tulsa, OK 74135

PHILLIPS 66 COMPANY
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Houston, Texas 77079

U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY (Trenton)

WILLIAM ANDERTON and MARGIE
ANDERTON,

Plaintiffs,

v.

3M COMPANY, et al.,

Defendants.

CASE NO.: 3:18-cv-14949-MAS-LHG

Civil Action – Asbestos Litigation

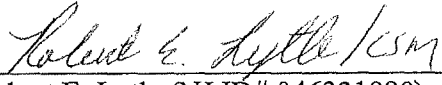
NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure and the annexed Signed Recommendation of the Asbestos Special Master of the Middlesex County New Jersey Superior Court, testimony will be taken by deposition upon oral examination of the Plaintiff, William Anderton, to be held at Quality Inn and Suites, 2320 Leopard Lane, Malvern, AR 72104 on the date and time set forth below:

<u>Deposition</u>	<u>Date</u>	<u>Time</u>
Video Discovery	Wednesday, November 14, 2018 continuing day to day thereafter as needed.	10:00 a.m. CST

PLEASE TAKE FURTHER NOTICE that the deposition will be video recorded.

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.


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Dated: 10/10/18

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Attorneys for Plaintiffs

WILLIAM ANDERTON and MARGIE
ANDERTON,

Plaintiffs,

v.

3M COMPANY, et al.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY

DOCKET NO.: MID-L- 5866 -18AS

Civil Action – Asbestos Litigation

RECOMMENDATION

THIS MATTER, having come before Special Master Agatha N. Dzikiewicz, Esq. on October 8, 2018, upon informal application of Szaferman, Lakind, Blumstein & Blader, P.C., attorneys for Plaintiffs, requesting permission from the Court to conduct a video discovery and a video *de bene esse* deposition of Plaintiff, William Anderton, and the Special Master having considered the moving papers, and there being no opposition, and for good cause shown;

IT IS, on this 16 day of October, 2018;

RECOMMENDED, that the Plaintiff's video discovery deposition be scheduled on Wednesday November 14, 2018, continuing day-to-day thereafter as needed, to be held at the

Location: Quality Inn and Suites, 2320 Leopard Lane, Malvern, AR 72104 to begin at 10:00 a.m. CST; and it is

RECOMMENDED, that the Plaintiff's video *de bene esse* deposition be taken on a date and time to be determined, continuing day to day thereafter as needed; and

IT IS FURTHER RECOMMENDED that Plaintiff's counsel furnish Plaintiff's answers to interrogatories certified by Plaintiff and any available medical records prior to the discovery deposition; and

IT IS FURTHER RECOMMENDED that additional costs associated with ordering a transcript on an expedited basis, to the extent necessary, should be borne by the Plaintiff, and

IT IS FURTHER RECOMMENDED that all counsel may reschedule these depositions without further leave of Court; and

IT IS FURTHER RECOMMENDED that counsel should forward a copy of this recommendation to all counsel of record via facsimile or email immediately upon receipt.


SPECIAL MASTER AGATHA N. DZIKIEWICZ, ESQ.